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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,351	01/23/2004	Gerald A. Saulet	135/24	8107
27612	7590	12/15/2005	EXAMINER	
AVERILL & VARN			CHIN SHUE, ALVIN C	
8244 PAINTER AVE.			ART UNIT	
WHITTIER, CA 90602			PAPER NUMBER	

3634

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/764,351	SAULET, GERALD A.	
	Examiner	Art Unit	
	Alvin C. Chin-Shue	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/23/04</u> . | 6) <input type="checkbox"/> Other: ____. |

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “the ladder side defining the wheel opening” lacks antecedent basis.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3,6,8-10,13,14,16 and 17 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Gannon.

Claims 1-3,9,10,15-17 and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wilson.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4,5,7 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gannon. To make the wheels of Gannon of the claimed diameters would have been an obvious matter of design choice, and to make his wheels of the claimed diameters would have been an obvious mechanical expediency depending on the ground clearance desired. To secure his wheel by rivets if a permanent attachment is desired, would have been an obvious mechanical expedient by the use of the claimed known fastener for its known use of enabling permanent attachment.

Claims 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson. To make the wheels of Wilson of the claimed diameters would have been an obvious matter of design choice, and to make his wheels of the claimed diameters would have been an obvious mechanical expediency depending on the ground clearance desired.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9,10 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gannon in view of either Brown or Wilson. Gannon shows the claimed ladder with the exception of the opening in the ladder side to define a wheel opening. Both Brown and Wilson in fig.5 show ladder sides having openings that define wheel openings. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the ladder side of Gannon with an opening, as taught by either Brown or Wilson, to define a wheel opening to enable positioning of a wheel therein. To make the wheels of Gannon of the claimed diameters would have been an obvious matter of design choice, and to make his wheels of the claimed diameters would have been an obvious mechanical expediency depending on the ground clearance desired.

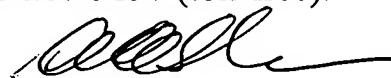
Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gannon in view of Tornabene et al. Gannon shows the claimed ladder with the exception of a wheel mounted approximate to the top of his ladder. Tornabene shows a wheel mounted proximate to his ladder top. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gannon to comprise a wheel mounted approximate the top of his ladder, as taught by Tornabene, to facilitate transporting of his ladder.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abraham in view of Tornabene et al. Abraham shows the claimed ladder with the exception of a wheel mounted approximate to both the top and bottom of his ladder. Tornabene shows a wheel mounted proximate to both the top and bottom of his. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Abraham with one of his wheel mounted approximate both the top and bottom of his ladder, as taught by Tornabene, to facilitate transporting of his ladder.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin C. Chin-Shue
Examiner
Art Unit 3634

ACS